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Attorneys for Defendant
FANDUEL, INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MICHAEL SIDISIN JR AND MAYSAM
SALEPHOUR individually and on behalf of all
other similarly situated,

Plaintiffs,

vs.

FANDUEL, INC., a Delaware Corporation and
DOES 1 through 25, inclusive,

Defendants.

Case No. BC565778

**DEFENDANT FANDUEL, INC.'S NOTICE
OF REMOVAL**

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT OF THE CENTRAL
DISTRICT OF CALIFORNIA:**

PLEASE TAKE NOTICE that Defendant FanDuel, Inc. ("FanDuel") hereby removes the above-captioned action, entitled *Michael Sidisin, et al. v. Fan Duel, Inc.* (BC 565778) from the Superior Court of California, County of Los Angeles, to the United States District Court for the Central

1 District of California pursuant to 28 U.S.C. §§ 1332, 1441, 1446 and 1453. In accordance with 28
2 U.S.C. § 1446(a), set forth below is a statement of the grounds for removal, and attached hereto as
3 Exhibits 1 and 2 are copies of all process, pleadings and orders served on FanDuel in the above-
4 captioned proceeding.

5 1. The above-captioned proceeding is within this Court’s jurisdiction under the Class Action
6 Fairness Act of 2005 (“CAFA”). CAFA provides for removal of “any civil action in which the
7 matter in controversy exceeds the sum or value of \$5,000,000,” there is minimal diversity between
8 plaintiffs and defendants (28 U.S.C. § 1332(d)(2)), and there are over 100 members “of all
9 proposed plaintiffs classes in the aggregate.” *Id.* § 1332(5)(B).

10 2. The Class Action complaint (Ex. 1) was filed on December 3, 2014, but was not served on
11 FanDuel. The First Amended Class Action Complaint (Ex. 2) (“FAC”) was filed on January 6,
12 2015, and was delivered to FanDuel’s agent for service in California on January 8, 2015. In the
13 FAC, plaintiffs alleged that they “bring this class action to secure injunctive relief and restitution
14 for the Class against Defendant.” (Ex. 2, ¶ 1.) In the class allegations, plaintiffs further allege that
15 they “bring this action on their own behalf and on behalf of all other person[s] similarly situated”
16 and define the class as “All persons who purchased the Product in the State of California for
17 personal use and not for resale during the time period of November 24, 2010 through the present.”
18 (Ex. 2, ¶ 24.)

19 3. The amount in controversy requirement of CAFA is satisfied and there are over 100
20 members in plaintiffs’ proposed class. Plaintiffs seek to represent every person in California who
21 purchased FanDuel’s fantasy sports service over more than a four year period. In 2014 alone,
22 Californians registered for and made an initial deposit into approximately 127,000 new FanDuel
23 accounts. Therefore, there are certainly over 100 members in plaintiffs’ proposed California class
24 since the class period extends further back (to November 24, 2010). While the plaintiffs have not
25 clearly articulated the dollar amount they are seeking in restitution, and FanDuel denies that
26 plaintiffs and the putative class have been damaged at all, plaintiffs claim that “Defendant has sold
27 millions of dollars more of its Product based upon Defendant’s false promises.” (Ex. 2, ¶ 22.)
28 Plaintiffs further allege that “Plaintiffs would not have purchased the Products but for the

1 representations by Defendant about the Product.” (Ex. 2, ¶ 30.) If plaintiffs can prove these
 2 allegations, then they will presumably seek restitution of the entire amounts plaintiffs and class
 3 members deposited with FanDuel upon registering for a FanDuel fantasy account. Since
 4 November 24, 2010, first time deposits into new accounts registered in California totaled
 5 approximately \$5.7 Million. Since Plaintiffs also pray for attorneys’ fees and “other and further
 6 relief” on their claims, the amount in controversy requirement is met. (Ex. 2, Prayer for Relief).

7 4. The minimal diversity requirement of CAFA is also satisfied. Minimal diversity requires
 8 only that at least one plaintiff be diverse from at least one defendant. 28 U.S.C. § 1332(d)(2)(A).
 9 Here, there is complete diversity between the parties because none of the plaintiffs are citizens of
 10 the same state as FanDuel. Both plaintiff Michael Sidisin and Maysam Salephour are citizens of
 11 California, while FanDuel is a Delaware corporation with a principal place of business in New
 12 York. (Ex. 2, ¶¶ 15, 16.)

13 5. None of the CAFA exceptions apply here (28 U.S.C. §§ 1332(d)(3), (d)(4)) because
 14 FanDuel is not a citizen of California.

15 6. Under 28 U.S.C. § 1446(b)(1), this Notice of Removal is timely filed because it was filed
 16 within thirty (30) days of FanDuel’s January 8, 2015 receipt of the First Amended Class Action
 17 Complaint; and FanDuel was not served with any earlier version of the complaint.

18 7. Removal to the United States District Court for the Central District of California is proper
 19 because it is the “district and division embracing the place where such action is pending.” 28
 20 U.S.C. § 1441(a).

21 8. Under 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be promptly served on
 22 plaintiffs’ counsel and promptly filed with the clerk of the Los Angeles Superior Court.

23 **WHEREFORE**, FanDuel respectfully gives notice that the above-captioned action is hereby
 24 removed to the United States District Court for the Central District of California.

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ZWILLGEN LAW LLP
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ZWILLGEN LAW LLP

Dated: February 5, 2015

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CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2015, I authorized the electronic filing of the foregoing documents, **CIVIL COVER SHEET and DEFENDANT FANDUEL, INC.'S NOTICE OF REMOVAL**, with the Clerk of the Court using the CM/ECF system to be served on the parties by electronic transmission and via Personal Service to the non-CM/ECF participants indicated below:

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I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on February 5, 2015.

ZWILLGEN LAW LLP

Dated: February 5, 2015

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